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OFFICE OF PETITIONS

In re Application of
Gaile
Application No. 10/644,134
Filed: August 20, 2003
Attorney Docket No. 298-209
For: SPRING ELEMENT

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 9, 2005, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed April 28, 2005, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on July 29, 2005 for failure to reply to the April 28, 2005 non-final Office action. A Notice of Abandonment was mailed on November 2, 2005.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were timely mailed on certificate of mailing date October 28, 2005 and received in the Office on October 31, 2005. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the required three month extension of time fee was charged on November 1, 2005. The mailroom date for the payment was erroneously listed as October 31, 2005. The undersigned will change Office financial records to show that the three month extension of time was received on mailroom date October 28, 2005. The three month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the November 2, 2005 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3683 for consideration of the amendment filed on October 31, 2005 (certificate of mailing date October 28, 2005).

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

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